

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Consumer Protection and Safety Division

RESOLUTION TL-19063

October 27, 2005

RESOLUTION

**RESOLUTION ADOPTING LEVEL OF TRANSPORTATION RATE
FUND FEE THAT SHOULD BE IMPOSED FOR FISCAL YEAR 2005-06**

SUMMARY

This resolution sets the Transportation Rate Fund (TRF) fee to be paid by household goods carriers at one-half of 1% (0.005) of gross operating revenue for the period July 1 to December 31, 2005, and seven-tenths of 1% (0.007) of gross operating revenue for the period January 1 to June 30, 2006.

BACKGROUND

The Commission regulates the operations and practices of household goods carriers. Pub. Util. Code Section 5003.1¹ requires every licensed household goods carrier to pay a fee to the Commission to support the administration and enforcement of its household goods carrier regulatory program. The fee is remitted quarterly and is calculated based on the carrier's gross operating revenue.² For many years (including the 2004-05 fiscal year) carriers have been paying a fee of one-half of 1% of revenue on transportation that is subject to the Commission's Maximum Rate Tariff 4 (MAX 4).³ This was the

¹ All statutory references are to the Public Utilities Code.

² In addition to the revenue fee, Section 5003.1 requires payment of a flat fee of \$15, of which \$5 is allocated to the Motor Carriers Safety Improvement Fund for use by the California Highway Patrol.

³ Section 5003.1 sets a fee of one-tenth of 1% (0.001) to apply to transportation that is not subject to MAX 4. This includes the transportation of used office, store, and institution furniture and fixtures when the carrier elects to transport those goods under its household goods carrier permit instead of a motor carrier permit issued

Footnote continued on next page

maximum allowable fee that could be collected under provisions of Sections 5003.1 and 5003.2(c). Section 5003.1 sets a maximum fee of one-third of 1%, but Section 5003.2(c) allows the Commission to increase the fee above that level if it decides the increase is necessary to maintain adequate funding for the TRF (which is what the Commission has done for a number of years). The Legislature increased the maximum allowable fee under Section 5003.2(c) from one-half of 1% to seven-tenths of 1% effective July 19, 2005, as part of Assembly Bill (AB) 139.

In the last several years the Commission and its staff have had to respond to an increasing number of consumer complaints of serious misconduct by household goods carriers. Particularly egregious has been the practice of "holding goods hostage." Many consumers have complained of carriers demanding payment of charges that were much greater than the estimated charges and threatening to auction or otherwise dispose of the consumer's goods if the higher charges were not paid before delivery. The Commission has also expended considerable resources attacking the problem of carriers operating without a license. Recognizing the seriousness of these problems, the Legislature passed AB 845, effective January 1, 2004, containing a package of enforcement enhancements and consumer protections and remedies.

DISCUSSION

The Commission has endeavored to protect consumers from unscrupulous household goods carriers and their fraudulent activities and to ensure that carriers operate under a valid license issued by the Commission. The Commission's resources, however, are limited. We believe that the assignment of additional staff to the household goods enforcement program is needed to more effectively carry out our responsibilities to consumers and the legitimate carrier industry, including the valuable provisions of AB 845. To this end, we recommended to the Legislature and the Governor that additional staff positions be created through the budget process and assigned to the household goods carrier enforcement program. The California Moving

by the Department of Motor Vehicles. Carriers are permitted to make such an election under provisions of Section 5137.

and Storage Association supported the recommendation. As a consequence, 5.5 positions were added to the Commission's 2005-06 budget. To ensure that funds were available to pay for the positions the Legislature amended Section 5003.2(c) by AB 139 to allow the Commission to raise the TRF fee up to seven-tenths of 1% of gross operating revenue.

The Commission has commenced the process of hiring additional staff. Our analysis of projected revenues and expenditures for the 2005-06 fiscal year shows that additional revenue will be required to fund the household goods carrier regulatory program, including the additional authorized enforcement-related positions. Therefore, we are setting the gross operating revenue fee to be paid on transportation subject to MAX 4 at one-half of 1% (0.005) for the first and second fiscal year quarters (July 1 to December 31, 2005) and at seven-tenths of 1% (0.007) for the third and fourth quarters (January 1 to June 30, 2006).

COMMENTS ON DRAFT RESOLUTION

To comply with Pub. Util. Code Section 311(g), the Consumer Protection and Safety Division (CPSD) commenced publication of a Daily Calendar notice on September 27, 2005, that apprised the public of the availability of its draft of this resolution and solicited comments by October 17, 2005. The draft resolution was also mailed to the California Moving and Storage Association and to every household goods carrier holding a permit from the Commission.

Comments were filed by Fred Wallace, owner of a San Francisco moving company. Wallace supports the resolution with reservations. He is concerned that the Commission's enforcement efforts are not adequate to abate the problem of illegal movers. He points to the proliferation of unlicensed carriers who advertise on the popular Craigslist Web site. Wallace also believes the Commission should be more active in educating consumers about the regulated household goods moving industry.

We agree there is a need for more and stronger enforcement to protect consumers from the hands of unscrupulous movers who operate outside the law and defraud our citizens. The fee increase adopted by this resolution will be used for that purpose. Wallace's comments about the need to educate the public have merit. CPSD advises that a task force on "visibility" recently completed a report which includes recommendations for educating

consumers, law enforcement agencies, and other parties on the Commission's licensing and enforcement activities. We expect CPSD to follow through with these recommendations so that consumers will be better informed on how to select a mover and be aware of the important protections afforded by the Commission's household goods regulations.

FINDINGS

1. The Commission regulates the operations and practices of household goods carriers.
2. Section 5003.1 requires every household goods carrier to pay a quarterly fee to the Commission to support the Commission's regulatory activities.
3. The 2005-06 budget passed by the Legislature and approved by the Governor provides authority for the Commission to hire 5.5 additional positions to be assigned to activities related to household goods carrier enforcement.
4. The Legislature amended Section 5003.2(c) by AB 139, effective July 19, 2005, to raise the maximum allowable fee to be collected from household goods carriers from one-half of 1% to seven-tenths of 1% of gross operating revenue.
5. The Commission requires additional TRF revenue to fund its household goods carrier regulatory program, including the additional 5.5 positions authorized in the 2005-06 budget.
6. To collect the additional revenue the Commission needs, the fee payable by household goods carriers under Sections 5003.1 and 5003.2(c) should be set at one-half of 1% of gross operating revenue for the first two quarters of the 2005-06 fiscal year and at seven-tenths of 1% of gross operating revenue for the third and fourth quarters.

THEREFORE, IT IS ORDERED that:

1. The fee provided for in Pub. Util. Code Sections 5003.1 and 5003.2(c) is hereby fixed at the following levels for the 2005-06 fiscal year:

- a) For the period July 1 through December 31, 2005, the fee shall be one-half of 1% (0.005) of gross operating revenue.
 - b) For the period January 1 through June 30, 2006, the fee shall be seven-tenths (0.007) of gross operating revenue.
2. The Executive Director shall serve a copy of this resolution on the California Moving and Storage Association and every household goods carrier holding a permit from the Commission.

This resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted by the Commission at its regularly scheduled meeting on October 27, 2005. The following Commissioners voted favorably thereon:

STEVE LARSON
Executive Director

MICHAEL R. PEEVEY
President
GEOFFREY F. BROWN
SUSAN P. KENNEDY
DIAN M. GRUENEICH
JOHN A. BOHN
Commissioners